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Fall 1997

APHIS' Animal Care Report

United States Department of Agriculture • Animal and Plant Health Inspection Service

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This edition of the report highlights acts of excellence by our field personnel and provides an important reminder to research facilities about the reporting requirements under the Animal Welfare Act (AWA). It also details several important initiatives that are underway to improve the effectiveness of the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) Animal Care (AC) program.

As always, the report aims to promote two-way communication between our program and representatives of key industry and interest groups like you. We want to know if you find the report helpful, and we welcome your comments. Call (301) 734-5175 to share your ideas.

W. Ron DeHaven
Acting Deputy Administrator

AC Inspectors Go Above and Beyond the Call of Duty

AC inspectors routinely do exceptional work that goes unnoticed by program stakeholders. The vignettes below describe three of these exceptional efforts. Future editions of this report will continue to highlight acts of excellence by field personnel.

- Earlier this year, a small aquarium in Maine went bankrupt and was taken over by the Small Business Administration (SBA), placing in jeopardy two elderly harbor seals that were long-time residents at the facility. In response, AC inspector Dr. Ron Zaidlicz visited the facility several times to check on the seals and assure that they were receiving the special treatment they needed.

Dr. Zaidlicz also worked with the owners, caretakers, and auctioneer hired to sell the animals to assure that the seals would not be auctioned off as property, and he cooperated with the Department of Commerce's National Marine Mammal Fisheries Service, which oversees the transfer of such animals. If SBA decides to place the seals in another facility, Dr. Zaidlicz has done the groundwork to assure that they will be placed together in a safe location.

- In August, the heatwave that plagued the Midwestern United States worried southern Illinois inspector Ben Flerlage. He was aware that one of his licensees, who owned a cougar and several bobcats, was hiding from the law and was not providing his animals with proper care. He became even more concerned when he spoke to family members and found that the man was not around during the day to provide water to his cats.

Working with State wildlife officials, Flerlage provided water to the cougar and bobcats in the middle of a 100-degree day. In a followup visit the next day, Flerlage and the State officials persuaded the owner to relocate the animals to another licensee's facility. Flerlage has since assisted in the relocation of the animals.

- This summer, a licensee in Colorado abandoned his facility, placing the health of his exotic cats in jeopardy. In response, several AC field personnel worked with officials from Alamosa County, the Pueblo Zoo, and The Humane Society of the United States to remove about 30 large felines from the facility.

To expedite the removal of the felines under Alamosa County's authority, veterinary medical officer Denise Sofranko made several inspections of the facility—some coordinated with the Colorado Division of Wildlife, a local veterinarian, and the Alamosa County Sheriff. All of the felines are now housed at USDA-licensed facilities in good standing.

Important Reminder for Research Facilities

Under AWA reporting requirements, research facilities have to submit annual reports on the number of AWA-regulated animals used in research. These animals must be listed by species and established pain categories. The deadline for submitting this year's report to APHIS-AC is December 1, 1997.

To assist you in preparing these reports, we discuss below five common reporting errors and ways to prevent them. Knowing these pitfalls will help you fill out your report accurately and help us process them efficiently.

- When adding the rows across for the total number of animals in column F, add only columns C, D, and E. Do not add the animals listed in column B. These animals were not used in research and should not be included in the total.
- A specific explanation of the procedures that produced pain or distress must be attached for all animals reported in column E. However, do not include any proprietary business information in the explanation.
- The continuation sheet is not necessary unless you are reporting more species than will fit on the 7023 form. If you do not use the sheet, you may discard it.
- If you prepare separate report forms for different sites, keep all the forms together and submit a cover form with the totals for all animals used under your registration number.
- Type or print the name and title of the institutional official in the correct block. We need this information to accurately identify the person in our records.

AC Launches Safe Pet Travel Campaign

In September, AC launched a public affairs campaign to educate members of the general public about traveling safely with their pets. To support the campaign, AC is disseminating three different informational pieces: a new, full-color brochure that gives an overview of both the AC and airline requirements for transporting animals on commercial airplanes, a factsheet that contains similar information, and a sticker labeled "Live Animals" to place on kennels to meet the AWA requirements. If you would like copies of these materials, contact Jamie Ambrosi at jambrosi@aphis.usda.gov or (301) 734-5175.

AC is also promoting its 24-hour, automated telephone voice response service (VRS), which provides information on the humane handling of cats and dogs during transport. By dialing (800) 545-USDA on a Touch-Tone™ telephone, you can learn about the AWA requirements for temperature, shipping documents, food and water, and cage sizes and make your animal's travel experience safer and more comfortable. Designed to be user-friendly, VRS is recommended for inclusion in training courses for airline cargo handlers, ticket agents, and supervisors. For brochures about the service, contact the Centers for Epidemiology and Animal Health, Veterinary Services, APHIS, USDA, 55 South Howes, Suite 300, Fort Collins, CO 80521.

USDA-APHIS-Animal Care

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Strategic-Direction Update

AC's strategic-direction efforts are advancing on several fronts.

- AC's horse protection team finalized the strategic direction for the horse protection program in August, and we are currently preparing a document detailing the team's recommendations. In general, the strategic direction gives the horse industry greater responsibility for preventing sore horses from competing. No publication date has yet been set for the document. However, we anticipate that it will be released early enough to use for the 1998 horse show season, and we will issue a Federal Register notice announcing its availability. It will also be posted on our website.

- The risk-based inspection system recently completed its 3-month pilot project, which began in June 1997. Results from the pilot study will help determine the final design of the system. The risk-based system will enable AC to concentrate its inspection efforts where they are needed most.
- AC's internal training team is planning a national work conference for all AC inspectors for March 2-6, 1998. This will be the second national conference (the first took place in May 1996). The agenda for the conference is being drafted at this time and will be available later this year.
- AC's eastern region is the first to try the program's upgraded narrative inspection report. The remaining regions are scheduled to convert to the new form by the end of calendar 1997. The new, narrative inspection report is designed to be easier for licensees and registrants to read and understand. It is the first component in AC's new management information system.

Customer Service Goals Established

As part of its ongoing effort to improve service, AC used the results from its customer satisfaction survey administered earlier this year to establish baseline levels of performance and goals for the program. The survey used a 5-point scale (1 = poor, 5 = excellent). AC is seeking to improve its rating on

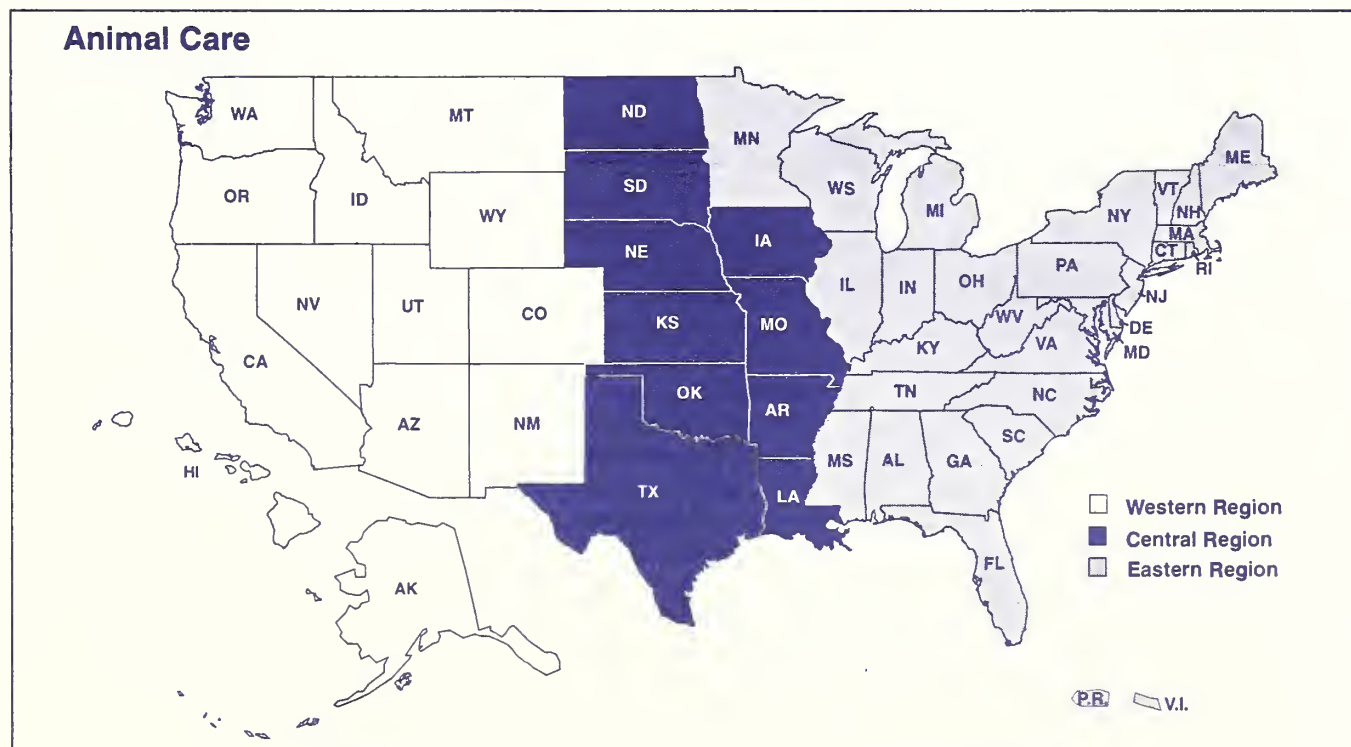
informational materials and electronic access from 3.24 to 4.0, its rating on the effectiveness of its regulations from 3.58 to 4.0, and its overall customer satisfaction rating from 3.59 to 4.0. The program is aiming to reach these levels of performance by fiscal year 1999. It will survey the same licensees and registrants at that time to measure its progress.

Final Rule on Tethering Published

On August 13, AC published a final rule that removed the provisions allowing the permanent tethering of dogs as a means of providing a primary enclosure. Despite some initial confusion regarding its scope, the rule pertains only to AWA licensees. Moreover, the temporary tethering of dogs for health or other reasons is permitted if licensees obtain approval from their AC regional inspector. The rule went into effect September 12. Copies are available from the AC headquarters office.

Review of Doris Day Animal League Petition Continues

AC officials are still reviewing the estimated 36,000 comments received on the petition prior to the close of the public comment period on May 27. They are also surveying their field inspectors to assess the petition's potential impact on the program's workload and alternative scenarios under which animal breeders and dealers could be regulated. Based on these efforts, AC will determine how to proceed.



Input Sought on Training and Handling Dangerous Animals

On July 24, AC published a Federal Register notice requesting information on current industry practices for the training and handling of wild and exotic animals that are potentially dangerous. Among other things, the notice seeks input on suggested experience requirements for animal handlers and trainers, as well as on contingency plans for the recapture of escaped or uncontrollable animals. The extended comment period on the notice closes November 6, 1997. AC will use the information received during the comment period to aid in developing future guidelines or rules on this issue.

Regulatory News

The items listed below are either under consideration and not yet published in the Federal Register, published in the Federal Register and open for comment, or previously open for comment and now under review by the Department.

Notices

- Doris Day Animal League Petition (under review)
- Notice of Intent to Regulate Pocket Pets (under consideration)
- Handling and Training of Potentially Dangerous Wild and Exotic Animals Used for Exhibition (open for comment)

Proposed Rules

- Perimeter Fencing (under review)
- Standards for Animal Auctions (under consideration)
- Exotic Canids and Felids: Minimum Age for Transport (under consideration)
- Standards for Farm Animals (under consideration)
- Standards for Marine Mammals (under consideration)
- Importation of Euthanized Animals (under consideration)
- Humane Treatment of Dogs and Cats: Licensing and Consignment (under consideration)
- Require Responsible Adult During Inspections (under consideration)
- Veterinary Medical Records (under consideration)

Final Rules

- Humane Treatment of Dogs and Cats: Wire Flooring (under consideration)
- Humane Treatment of Dogs and Cats: Temperature (under consideration)
- Swim-With-the-Dolphins Human Interactive Programs (under consideration)

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As you may have heard, in late September I was named Deputy Administrator of the Animal Care (AC) program. With my permanent appointment, I can reaffirm our commitment to the AC strategic plan and ensure that many of the important managerial and regulatory projects that we initiated over the past 2 years are brought to completion. I look forward to this challenge and to continuing to work with you, our valued stakeholders.

This edition of the AC Report details many of our ongoing initiatives, including our efforts to develop an internal dealer inspection guide and environmental enrichment guidelines for nonhuman primates. It also discusses notable field activities and offers updates on our regulatory and policy initiatives.

As always, this report aims to promote two-way communication between our program within the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) and representatives of industry and interest groups like you. We want to know if you find the report helpful, and we welcome your comments. Call (301) 734-5175 to share your ideas.

W. Ron DeHaven
Deputy Administrator

APHIS Monitors Keiko's Move

In September, Keiko, the killer whale that starred in the movie *Free Willie*, was moved from the Oregon Coast Aquarium to a sea pen in Iceland. The move was the second step in an effort to return Keiko to his native waters in the North Atlantic. AC played a key role in this relocation effort.

Following the completion of the independent review of Keiko's health last January, AC officials met directly with government and veterinary representatives from Iceland to discuss the findings of the review and the Animal Welfare Act (AWA) requirements for Keiko's move. AC officials also worked with the U.S. Air Force to help arrange a nonstop flight from Oregon to Iceland, and they monitored Keiko's transport from the aquarium pool to the Air Force jet. We are pleased to report that all went well and that Keiko appears healthy and happy in his sea pen in Iceland. Keiko will continue to be monitored to determine if an eventual return to the wild is possible.

"Doris Day" Advance Notice Under Review

The extended comment period for the long-awaited advance notice of proposed rulemaking on the regulation of dog and cat dealers closed September 23. While open, individuals and organizations were able to comment on the notice both in the traditional way (via regular mail) and electronically via APHIS' website. AC estimates that more than 11,000 comments were submitted on the notice, including more than 1,000 electronic comments.

APHIS is currently reviewing these comments to determine how to proceed. If you wish to review the comments that were submitted electronically, visit APHIS' website (<http://comments.aphis.usda.gov>).

AC Considers Publishing Petition on Rats, Mice, and Birds

AC is considering publishing in the Federal Register a petition submitted earlier this year that asks the USDA to regulate rats, mice, and birds under the AWA. The petition, submitted by the Alternative Research and Development Foundation, a group affiliated with the American Antivivisection Society, would significantly increase AC's regulatory responsibilities and affect oversight of other program activities (e.g. inspections of dog dealers and animal exhibitors). Accordingly, AC intends to seek public input on whether rats, mice, and birds should be regulated and, if so, how the increased workload should be prioritized. If the petition is published, APHIS will post a press release to its website announcing the action.

AC Reports on Success of Innovative Enforcement Efforts

Over the past 3 years, AC has pursued a new enforcement strategy that focuses on working with licensees and registrants who show an interest in improving conditions for their animals while pursuing stringent enforcement action against those who do not. A key part of this strategy is the use of innovative settlements that typically require monetary penalties to be used for facility improvements, research on animal-care related issues, or employee training. These settlements provide three major advantages: they ensure that funds are used to improve the conditions for animals, they eliminate costly litigation, and they help resolve cases faster.

In November, AC issued a report that documents the success of its efforts. The report discusses AC's new strategy and provides overall data on the number and types of settlements that have been pursued. The report also details the strategy's significant reduction in

the average time it takes to resolve AWA cases (285 days in 1998 compared to 620 days in 1995) and the estimated cost savings by avoiding litigation (approximately \$1.5 million).

Draft Dealer Inspection Guidelines Under Review

As part of its strategic direction initiative, AC has drafted guidelines for its field personnel to use when conducting AWA inspections of animal dealers. These guidelines impose no new requirements on dealers and have been prepared only to assist AC personnel in their inspection efforts and to improve the uniformity of inspections throughout the country. The guidelines cover such areas as how to document inspection findings and how to conduct exit interviews. A draft of the guidelines is currently under review. When finalized, the guidelines will be made available to the public.

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Primate Import Workgroup Established

AC has established a workgroup that is seeking to improve APHIS' oversight of shipments of imported primates. The group has been working with the U.S. Fish and Wildlife Service (FWS) and the Centers for Disease Control and Prevention (CDC) to coordinate oversight activities, improve information sharing between agencies, and avoid duplication of efforts. For example, FWS and CDC officials have agreed to provide APHIS with information on importers' compliance histories and dates of future shipments. In addition, AC will work with CDC and FWS to address shipping and handling concerns with unregulated importers and transporters. Such measures will clearly help to improve oversight of shipments of imported primates in the future.

Swim-With-The-Dolphin Rules Take Effect, With Exceptions

In early September, APHIS published a final rule that establishes new requirements for "swim-with-the-dolphin" programs. These interactive programs involve direct human contact with the dolphins and pose specific risks that were not directly addressed by the previous AWA regulations. Among other things, the new rules require that facilities maintain three separate pool areas: an interactive area, a buffer zone, and a sanctuary where the dolphins can swim free of public contact.

In early October, the requirements in the final rule went into effect with a couple of important exceptions. The requirements pertaining to the ratio between human participants and attendants for shallow-water wading programs and the space requirements for the interactive areas of wading pools have been suspended until these issues can be explored more carefully. (In wading programs, the public merely wades in the water with the dolphins as opposed to swimming with them.) APHIS intends to publish a notice in the Federal Register soliciting input on these and other issues regarding wading programs.

Two New Horse Industry Organizations Seek Certification

Two new horse industry organizations (HIO's) are seeking certification from AC for their designated qualified person (DQP) programs. The organizations, the Kentucky Walking Horse Association and National Walking Horse Association, both have applications pending. If the applications are approved, the organizations would join the six existing HIO's that are certified by APHIS to conduct inspections at horse shows and sales. The two new HIO's would also be eligible to participate in APHIS' Horse Protection Strategic Plan, which gives HIO's greater authority for overseeing their own events.

All certified HIO's will be meeting December 15 in Riverdale, MD, to discuss enforcement of the Horse Protection Act during the 1999 show season, including the provisions of the strategic plan.

Strategic Direction Update

AC continues to move forward with its numerous strategic direction activities. Besides the dealer inspection guide mentioned earlier in this report, the activities also include the following projects.

- AC held its second of three training courses on elephant care and handling at the San Diego Zoo and Wild Animal Park in mid-November. Sixteen AC inspectors and veterinary medical officers attended the training. The courses are designed to improve AWA inspections and enforcement with regard to elephants. By fiscal year 2000, 45 members of AC's field force will have completed the courses.
- AC is currently working to finalize its long-awaited policy on environmental enrichment for nonhuman primates. The policy, which will serve as a resource for inspectors and regulated parties, will complement the National Research Council's recent publication on this same issue. The goal is to use both documents to best attain enrichment for primates as mandated by the 1985 amendment to the AWA. A draft of the policy will be published in the Federal Register, allowing for public comment and modification prior to the policy's issuance in final form.

Highlights From the Field

- In early March, AC inspector Cathy Niebruegge conducted several inspections of an animal dealer's premises in Ardmore, OK. She noted numerous serious deficiencies in meeting the AWA standards, including inadequate sanitation, veterinary care, and shelter from the elements. In short, the dogs and cats at this facility were in bad shape and suffering from exposure to severe weather conditions.

Niebruegge not only documented these items for future enforcement action against the licensee, she also went the extra mile to ensure that the animals received immediate care. In this effort, she worked with other AC Central Region personnel and local humane officials to relocate nearly 100 dogs to a shelter. Fortunately, the owner of the facility recognized the gravity of the situation and voluntarily gave the animals to the shelter before they had to be formally confiscated. The dealer also voluntarily gave up his license to operate under the AWA.

- In late August, an airport cargo worker at Dulles International Airport near Washington, DC, contacted AC's Eastern Region office concerned about a kennel in which a dog had been loaded. The kennel was a new design that was collapsible and allegedly did not have projecting rims to protect the ventilation openings from being blocked. The dog was already on its way from

Dulles to O'Hare International Airport where it would be immediately loaded on an airplane destined for Japan.

AC had no time to get an inspector to O'Hare. Accordingly, the regional office staff worked fervently to find another official who could inspect the kennel in Chicago. After making several calls, the staff was able to contact Dr. Jerry Brown, a port veterinarian with APHIS' Veterinary Services program at O'Hare. Dr. Brown was able to make it to the runway just as the dog was being transferred to the Japan-bound flight. He carefully inspected the kennel and found the construction sound and the ventilation adequate, allaying the concerns of all involved. The dog then traveled safely to Japan.

- In late August, AC veterinarian Norma Harlan was contacted on two occasions by Fayette County, PA, law enforcement personnel. They requested her help in serving search warrants on a local pet store owner who was being investigated for alleged violations of local animal cruelty statutes.

On the first occasion, Dr. Harlan assisted the local officials by inspecting animals at the pet store. She identified several alleged violations of the AWA standards, including inadequate sanitation and a lack of veterinary care. On the second occasion, Harlan helped the officials inspect animals at the store owner's residence. On that inspection, Harlan again noted animals living in deplorable conditions. (One extremely thin bobcat was lying, soaking wet, in its cage.)

In both cases, Harlan helped local officials confiscate the animals and relocate them to suitable holding facilities. She also documented numerous alleged AWA violations and requested a formal investigation of the pet owner. Both the local case for animal cruelty and the AWA investigation are currently ongoing.

Several New, Revised Policies Hit the Street

AC has issued several new AWA policies. These policies represent AC's interpretation of the existing AWA regulations and standards. The policies, therefore, should be regarded as requirements for compliance with the law:

- *Policy #6:* This revised policy, dated October 13, 1998, expands and clarifies the enclosure space requirements for traveling exhibitors. Specifically, the policy spells out when licensees are required to meet full primary enclosure space requirements and/or provide sufficient exercise space and time for animals during traveling exhibits.
- *Policy #22:* This new policy clarifies when a necropsy should be performed on AWA-regulated animals and details certain components that are necessary for an appropriate postmortem procedure. The policy also states that necropsy records must be maintained at a facility for at least 1 year or as specified in the AWA regulations and standards.

- **Policy #23:** This new policy details the criteria for licensing dealers of hoofstock. The policy defines hoofstock as any hooved animal, such as deer, pig, llama, or sheep. The policy applies to all hoofstock.
- **Policy #24:** This new policy clarifies the space requirements for the enclosures of flying and aquatic species. For flying species, the policy requires that sufficient space be afforded for both roosting and flying. For aquatic species, the policy requires that primary enclosures contain both dry and aquatic portions that each afford the animals sufficient space to make normal postural and social adjustments with freedom of movement.
- **Policy #25:** This new policy clarifies what constitutes a proper diet for large felids, such as lions and tigers. Among other things, the policy notes that a number of commercially prepared diets are available and strongly recommends adherence to a strict feeding schedule. The policy also requires attending veterinarian approval of locally prepared diets to ensure nutritional adequacy.

To obtain a copy of any AWA policy, you may visit AC's home page on the World Wide Web or contact the AC regional office in your area. (The addresses for both are provided in the shadowbox on page 2 of this report.)

Policy Update

This new section will appear in all future editions of the AC Report. The section will keep you apprised of new policies under development as well as those currently being revised. Once the new or revised policies are officially issued, complete writeups will be provided in the report.

New Policies Under Development

- Medical records
- Prairie dogs
- Training/Handling of dangerous animals
- Licensing and rehabilitation facilities and education exhibitors
- Guidelines for farm animals used for AWA-regulated purposes (adopting industry standards)
- Regulation of farm animals used to test and manufacture biologics
- Regulation of transportation of nonhuman primates

Policies Being Revised

- Policy #17: Annual Report for Research Facilities

Regulatory Update

The items listed below are either under consideration and not yet published in the Federal Register, published in the Federal Register and open for comment, or previously open for comment and now under review by the Department.

Notices:

- Handling and Training of Potentially Dangerous Wild and Exotic Animals Used for Exhibition (under review)
- Guidelines for Farm Animals used for AWA-regulated purposes (under consideration)
- Swim-With-The-Dolphins: Enforcement Notice (under consideration)
- Petition for the Regulation of Rats, Mice, and Birds (under consideration)

Advance Notices of Proposed Rulemaking:

- Licensing Requirements for Dogs and Cats: Response to Doris Day
- Animal League Petition (under review)

Affirmation of Interim Rules:

- Resting Surfaces for Dogs and Cats (under consideration)

Proposed Rules:

- Clarifying Meaning of "Field Study" (under review)
- Revisions to AWA Licensing Requirements (under consideration)
- Identification of Unweaned Puppies and Kittens (under consideration)
- Exotic Canids and Felids: Minimum Age for Transport (under consideration)
- Standards for Marine Mammals: Consensus Language (under consideration)
- Veterinary Medical Records (under consideration)
- Confiscation of Animals (under consideration)
- Horse Protection (under consideration)

Final Rules

- Perimeter Fencing (under consideration)
- Nomenclature Changes (under consideration)

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